

AMENDED IN SENATE MAY 15, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 43

Introduced by Senator Wolk

(Coauthors: Senators Corbett and Pavley)

(Coauthors: Assembly Members Levine, Skinner, and Williams)

December 11, 2012

An act to amend Section ~~25019~~ 25100 of the Corporations Code, and to amend Sections 216 and 218, 218, and 365.1 of, and to add Chapter 7.6 (commencing with Section 2831) to Part 2 of Division 1 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Wolk. Shared Renewable Energy Self-Generation Program.

(1) Under existing law, the Public Utilities Commission has regulatory jurisdiction over public utilities, including electrical corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, the local government renewable energy self-generation program authorizes a local government, as defined, to receive a bill credit, as defined, to be applied to a designated benefiting account for electricity exported to the electrical grid by an eligible renewable generating facility, as defined, and requires the commission to adopt a rate tariff for the benefiting account.

This bill would enact the Shared Renewable Energy Self-Generation Program. The program would authorize a retail customer of an electrical corporation to acquire an interest, as defined, in a shared renewable energy facility, as defined, for the purpose of receiving a bill credit, ~~as defined~~, to offset all or a portion of the customer's electricity usage, consistent with specified requirements.

The bill would provide that any corporation or person engaged directly or indirectly in developing, owning, producing, delivering, participating in, or selling interests in, a shared renewable energy facility is not a public utility or electrical corporation solely by reason of engaging in any of those activities.

(2) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of the bill would require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 25019 of the Corporations Code is~~
2 ~~amended to read:~~
3 ~~25019. (a) "Security" means any note; stock; treasury stock;~~
4 ~~membership in an incorporated or unincorporated association;~~
5 ~~bond; debenture; evidence of indebtedness; certificate of interest~~
6 ~~or participation in any profit-sharing agreement; collateral trust~~
7 ~~certificate; preorganization certificate or subscription; transferable~~
8 ~~share; investment contract; viatical settlement contract or a~~
9 ~~fractionalized or pooled interest therein; life settlement contract~~
10 ~~or a fractionalized or pooled interest therein; voting trust certificate;~~
11 ~~certificate of deposit for a security; interest in a limited liability~~
12 ~~company and any class or series of those interests (including any~~

fractional or other interest in that interest), except a membership interest in a limited liability company in which the person claiming this exception can prove that all of the members are actively engaged in the management of the limited liability company; provided that evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company, or the right to participate in management, shall not establish, without more, that all members are actively engaged in the management of the limited liability company; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under that title or lease; put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof); or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; any beneficial interest or other security issued in connection with a funded employees' pension, profit sharing, stock bonus, or similar benefit plan; or, in general, any interest or instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. All of the foregoing are securities whether or not evidenced by a written document.

(b) "Security" does not include: (1) any beneficial interest in any voluntary inter vivos trust which is not created for the purpose of carrying on any business or solely for the purpose of voting, (2) any beneficial interest in any testamentary trust, (3) any insurance or endowment policy or annuity contract under which an insurance company admitted in this state promises to pay a sum of money (whether or not based upon the investment performance of a segregated fund) either in a lump sum or periodically for life or some other specified period, (4) any franchise subject to registration under the Franchise Investment Law (Division 5 (commencing with Section 31000)), or exempted from registration by Section 31100 or 31101, or (5) any right to a bill credit or interest of a participant in a community renewable energy facility pursuant to Chapter 7.5 (commencing with Section 2830) of Part 2 of Division 4 of the Public Utilities Code.

1 *SECTION 1. Section 25100 of the Corporations Code is*
2 *amended to read:*

3 25100. The following securities are exempted from Sections
4 25110, 25120, and 25130:

5 (a) Any security (including a revenue obligation) issued or
6 guaranteed by the United States, any state, any city, county, city
7 and county, public district, public authority, public corporation,
8 public entity, or political subdivision of a state or any agency or
9 corporate or other instrumentality of any one or more of the
10 foregoing; or any certificate of deposit for any of the foregoing.

11 (b) Any security issued or guaranteed by Canada, any Canadian
12 province, any political subdivision or municipality of that province,
13 or by any other foreign government with which the United States
14 currently maintains diplomatic relations, if the security is
15 recognized as a valid obligation by the issuer or guarantor; or any
16 certificate of deposit for any of the foregoing.

17 (c) Any security issued or guaranteed by and representing an
18 interest in or a direct obligation of a national bank or a bank or
19 trust company incorporated under the laws of this state, and any
20 security issued by a bank to one or more other banks and
21 representing an interest in an asset of the issuing bank.

22 (d) Any security issued or guaranteed by a federal savings
23 association or federal savings bank or federal land bank or joint
24 land bank or national farm loan association or by any savings
25 association, as defined in subdivision (a) of Section 5102 of the
26 Financial Code, which is subject to the supervision and regulation
27 of the Commissioner of Financial Institutions of this state.

28 (e) Any security (other than an interest in all or portions of a
29 parcel or parcels of real property which are subdivided land or a
30 subdivision or in a real estate development), the issuance of which
31 is subject to authorization by the Insurance Commissioner, the
32 Public Utilities Commission, or the Real Estate Commissioner of
33 this state.

34 (f) Any security consisting of any interest in all or portions of
35 a parcel or parcels of real property which are subdivided lands or
36 a subdivision or in a real estate development; provided that the
37 exemption in this subdivision shall not be applicable to: (1) any
38 investment contract sold or offered for sale with, or as part of, that
39 interest, or (2) any person engaged in the business of selling,
40 distributing, or supplying water for irrigation purposes or domestic

1 use that is not a public utility except that the exemption is
2 applicable to any security of a mutual water company (other than
3 an investment contract as described in paragraph (1)) offered or
4 sold in connection with subdivided lands pursuant to Chapter 2
5 (commencing with Section 14310) of Part 7 of Division 3 of Title
6 1.

7 (g) Any mutual capital certificates or savings accounts, as
8 defined in the Savings Association Law, issued by a savings
9 association, as defined by subdivision (a) of Section 5102 of the
10 Financial Code, and holding a license or certificate of authority
11 then in force from the Commissioner of Financial Institutions of
12 this state.

13 (h) Any security issued or guaranteed by any federal credit
14 union, or by any credit union organized and supervised, or
15 regulated, under the Credit Union Law.

16 (i) Any security issued or guaranteed by any railroad, other
17 common carrier, public utility, or public utility holding company
18 which is (1) subject to the jurisdiction of the Interstate Commerce
19 Commission or its successor or (2) a holding company registered
20 with the Securities and Exchange Commission under the Public
21 Utility Holding Company Act of 1935 or a subsidiary of that
22 company within the meaning of that act or (3) regulated in respect
23 of the issuance or guarantee of the security by a governmental
24 authority of the United States, of any state, of Canada or of any
25 Canadian province; and the security is subject to registration with
26 or authorization of issuance by that authority.

27 (j) Any security (except evidences of indebtedness, whether
28 interest bearing or not) of an issuer (1) organized exclusively for
29 educational, benevolent, fraternal, religious, charitable, social, or
30 reformatory purposes and not for pecuniary profit, if no part of the
31 net earnings of the issuer inures to the benefit of any private
32 shareholder or individual, or (2) organized as a chamber of
33 commerce or trade or professional association. The fact that
34 amounts received from memberships or dues or both will or may
35 be used to construct or otherwise acquire facilities for use by
36 members of the nonprofit organization does not disqualify the
37 organization for this exemption. This exemption does not apply
38 to the securities of any nonprofit organization if any promoter
39 thereof expects or intends to make a profit directly or indirectly
40 from any business or activity associated with the organization or

1 operation of that nonprofit organization or from remuneration
2 received from that nonprofit organization.

3 (k) Any agreement, commonly known as a “life income
4 contract,” of an issuer (1) organized exclusively for educational,
5 benevolent, fraternal, religious, charitable, social, or reformatory
6 purposes and not for pecuniary profit and (2) which the
7 commissioner designates by rule or order, with a donor in
8 consideration of a donation of property to that issuer and providing
9 for the payment to the donor or persons designated by him or her
10 of income or specified periodic payments from the donated
11 property or other property for the life of the donor or those other
12 persons.

13 (l) Any note, draft, bill of exchange, or banker’s acceptance
14 which is freely transferable and of prime quality, arises out of a
15 current transaction or the proceeds of which have been or are to
16 be used for current transactions, and which evidences an obligation
17 to pay cash within nine months of the date of issuance, exclusive
18 of days of grace, or any renewal of that paper which is likewise
19 limited, or any guarantee of that paper or of that renewal, provided
20 that the paper is not offered to the public in amounts of less than
21 twenty-five thousand dollars (\$25,000) in the aggregate to any one
22 purchaser. In addition, the commissioner may, by rule or order,
23 exempt any issuer of any notes, drafts, bills of exchange or banker’s
24 acceptances from qualification of those securities when the
25 commissioner finds that the qualification is not necessary or
26 appropriate in the public interest or for the protection of investors.

27 (m) Any security issued by any corporation organized and
28 existing under the provisions of Chapter 1 (commencing with
29 Section 54001) of Division 20 of the Food and Agricultural Code.

30 (n) Any beneficial interest in an employees’ pension,
31 profit-sharing, stock bonus or similar benefit plan which meets the
32 requirements for qualification under Section 401 of the federal
33 Internal Revenue Code or any statute amendatory thereof or
34 supplementary thereto. A determination letter from the Internal
35 Revenue Service stating that an employees’ pension, profit-sharing,
36 stock bonus or similar benefit plan meets those requirements shall
37 be conclusive evidence that the plan is an employees’ pension,
38 profit-sharing, stock bonus or similar benefit plan within the
39 meaning of the first sentence of this subdivision until the date the

1 determination letter is revoked in writing by the Internal Revenue
2 Service, regardless of whether or not the revocation is retroactive.

3 (o) Any security listed or approved for listing upon notice of
4 issuance on a national securities exchange, if the exchange has
5 been certified by rule or order of the commissioner and any warrant
6 or right to purchase or subscribe to the security. The exemption
7 afforded by this subdivision does not apply to securities listed or
8 approved for listing upon notice of issuance on a national securities
9 exchange, in a rollup transaction unless the rollup transaction is
10 an eligible rollup transaction as defined in Section 25014.7.

11 That certification of any exchange shall be made by the
12 commissioner upon the written request of the exchange if the
13 commissioner finds that the exchange, in acting on applications
14 for listing of common stock, substantially applies the minimum
15 standards set forth in either subparagraph (A) or (B) of paragraph
16 (1), and, in considering suspension or removal from listing,
17 substantially applies each of the criteria set forth in paragraph (2).

18 (1) Listing standards:

19 (A) (i) Shareholders' equity of at least four million dollars
20 (\$4,000,000).

21 (ii) Pretax income of at least seven hundred fifty thousand
22 dollars (\$750,000) in the issuer's last fiscal year or in two of its
23 last three fiscal years.

24 (iii) Minimum public distribution of 500,000 shares (exclusive
25 of the holdings of officers, directors, controlling shareholders, and
26 other concentrated or family holdings), together with a minimum
27 of 800 public holders or minimum public distribution of 1,000,000
28 shares together with a minimum of 400 public holders. The
29 exchange may also consider the listing of a company's securities
30 if the company has a minimum of 500,000 shares publicly held, a
31 minimum of 400 shareholders and daily trading volume in the
32 issue has been approximately 2,000 shares or more for the six
33 months preceding the date of application. In evaluating the
34 suitability of an issue for listing under this trading provision, the
35 exchange shall review the nature and frequency of that activity
36 and any other factors as it may determine to be relevant in
37 ascertaining whether the issue is suitable for trading. A security
38 that trades infrequently shall not be considered for listing under
39 this paragraph even though average daily volume amounts to 2,000
40 shares per day or more.

1 Companies whose securities are concentrated in a limited
2 geographical area, or whose securities are largely held in block by
3 institutional investors, normally may not be considered eligible
4 for listing unless the public distribution appreciably exceeds
5 500,000 shares.

6 (iv) Minimum price of three dollars (\$3) per share for a
7 reasonable period of time prior to the filing of a listing application;
8 provided, however, in certain instances an exchange may favorably
9 consider listing an issue selling for less than three dollars (\$3) per
10 share after considering all pertinent factors, including market
11 conditions in general, whether historically the issue has sold above
12 three dollars (\$3) per share, the applicant's capitalization, and the
13 number of outstanding and publicly held shares of the issue.

14 (v) An aggregate market value for publicly held shares of at
15 least three million dollars (\$3,000,000).

16 (B) (i) Shareholders' equity of at least four million dollars
17 (\$4,000,000).

18 (ii) Minimum public distribution set forth in clause (iii) of
19 subparagraph (A) of paragraph (1).

20 (iii) Operating history of at least three years.

21 (iv) An aggregate market value for publicly held shares of at
22 least fifteen million dollars (\$15,000,000).

23 (2) Criteria for consideration of suspension or removal from
24 listing:

25 (i) If a company that (A) has shareholders' equity of less than
26 one million dollars (\$1,000,000) has sustained net losses in each
27 of its two most recent fiscal years, or (B) has net tangible assets
28 of less than three million dollars (\$3,000,000) and has sustained
29 net losses in three of its four most recent fiscal years.

30 (ii) If the number of shares publicly held (excluding the holdings
31 of officers, directors, controlling shareholders and other
32 concentrated or family holdings) is less than 150,000.

33 (iii) If the total number of shareholders is less than 400 or if the
34 number of shareholders of lots of 100 shares or more is less than
35 300.

36 (iv) If the aggregate market value of shares publicly held is less
37 than seven hundred fifty thousand dollars (\$750,000).

38 (v) If shares of common stock sell at a price of less than three
39 dollars (\$3) per share for a substantial period of time and the issuer
40 shall fail to effectuate a reverse stock split of the shares within a

1 reasonable period of time after being requested by the exchange
2 to take that action.

3 A national securities exchange, certified by rule or order of the
4 commissioner under this subdivision, shall file annual reports when
5 requested to do so by the commissioner. The annual reports shall
6 contain, by issuer: the variances granted to an exchange's listing
7 standards, including variances from corporate governance and
8 voting rights' standards, for any security of that issuer; the reasons
9 for the variances; a discussion of the review procedure instituted
10 by the exchange to determine the effect of the variances on
11 investors and whether the variances should be continued; and any
12 other information that the commissioner deems relevant. The
13 purpose of these reports is to assist the commissioner in
14 determining whether the quantitative and qualitative requirements
15 of this subdivision are substantially being met by the exchange in
16 general or with regard to any particular security.

17 The commissioner after appropriate notice and opportunity for
18 hearing in accordance with the provisions of the Administrative
19 Procedure Act, Chapter 5 (commencing with Section 11500) of
20 Part 1 of Division 3 of Title 2 of the Government Code, may, in
21 his or her discretion, by rule or order, decertify any exchange
22 previously certified that ceases substantially to apply the minimum
23 standards or criteria as set forth in paragraphs (1) and (2).

24 A rule or order of certification shall conclusively establish that
25 any security listed or approved for listing upon notice of issuance
26 on any exchange named in a rule or order of certification, and any
27 warrant or right to purchase or subscribe to that security, is exempt
28 under this subdivision until the adoption by the commissioner of
29 any rule or order decertifying the exchange.

30 (p) A promissory note secured by a lien on real property, which
31 is neither one of a series of notes of equal priority secured by
32 interests in the same real property nor a note in which beneficial
33 interests are sold to more than one person or entity.

34 (q) Any unincorporated interindemnity or reciprocal or
35 interinsurance contract, that qualifies under the provisions of
36 Section 1280.7 of the Insurance Code, between members of a
37 cooperative corporation, organized and operating under Part 2
38 (commencing with Section 12200) of Division 3 of Title 1, and
39 whose members consist only of physicians and surgeons licensed
40 in California, which contracts indemnify solely in respect to

1 medical malpractice claims against the members, and which do
2 not collect in advance of loss any moneys other than contributions
3 by each member to a collective reserve trust fund or for necessary
4 expenses of administration.

5 (1) Whenever it appears to the commissioner that any person
6 has engaged or is about to engage in any act or practice constituting
7 a violation of any provision of Section 1280.7 of the Insurance
8 Code, the commissioner may, in the commissioner's discretion,
9 bring an action in the name of the people of the State of California
10 in the superior court to enjoin the acts or practices or to enforce
11 compliance with Section 1280.7 of the Insurance Code. Upon a
12 proper showing a permanent or preliminary injunction, a restraining
13 order, or a writ of mandate shall be granted and a receiver or
14 conservator may be appointed for the defendant or the defendant's
15 assets.

16 (2) The commissioner may, in the commissioner's discretion,
17 (A) make public or private investigations within or outside of this
18 state as the commissioner deems necessary to determine whether
19 any person has violated or is about to violate any provision of
20 Section 1280.7 of the Insurance Code or to aid in the enforcement
21 of Section 1280.7, and (B) publish information concerning the
22 violation of Section 1280.7.

23 (3) For the purpose of any investigation or proceeding under
24 this section, the commissioner or any officer designated by the
25 commissioner may administer oaths and affirmations, subpoena
26 witnesses, compel their attendance, take evidence, and require the
27 production of any books, papers, correspondence, memoranda,
28 agreements, or other documents or records which the commissioner
29 deems relevant or material to the inquiry.

30 (4) In case of contumacy by, or refusal to obey a subpoena
31 issued to, any person, the superior court, upon application by the
32 commissioner, may issue to the person an order requiring the
33 person to appear before the commissioner, or the officer designated
34 by the commissioner, to produce documentary evidence, if so
35 ordered, or to give evidence touching the matter under investigation
36 or in question. Failure to obey the order of the court may be
37 punished by the court as a contempt.

38 (5) No person is excused from attending or testifying or from
39 producing any document or record before the commissioner or in
40 obedience to the subpoena of the commissioner or any officer

1 designated by the commissioner, or in any proceeding instituted
2 by the commissioner, on the ground that the testimony or evidence
3 (documentary or otherwise), required of the person may tend to
4 incriminate the person or subject the person to a penalty or
5 forfeiture, but no individual may be prosecuted or subjected to any
6 penalty or forfeiture for or on account of any transaction, matter,
7 or thing concerning which the person is compelled, after validly
8 claiming the privilege against self-incrimination, to testify or
9 produce evidence (documentary or otherwise), except that the
10 individual testifying is not exempt from prosecution and
11 punishment for perjury or contempt committed in testifying.

12 (6) The cost of any review, examination, audit, or investigation
13 made by the commissioner under Section 1280.7 of the Insurance
14 Code shall be paid to the commissioner by the person subject to
15 the review, examination, audit, or investigation, and the
16 commissioner may maintain an action for the recovery of these
17 costs in any court of competent jurisdiction. In determining the
18 cost, the commissioner may use the actual amount of the salary or
19 other compensation paid to the persons making the review,
20 examination, audit, or investigation plus the actual amount of
21 expenses including overhead reasonably incurred in the
22 performance of the work.

23 The recoverable cost of each review, examination, audit, or
24 investigation made by the commissioner under Section 1280.7 of
25 the Insurance Code shall not exceed twenty-five thousand dollars
26 (\$25,000), except that costs exceeding twenty-five thousand dollars
27 (\$25,000) shall be recoverable if the costs are necessary to prevent
28 a violation of any provision of Section 1280.7 of the Insurance
29 Code.

30 (r) Any shares or memberships issued by any corporation
31 organized and existing pursuant to the provisions of Part 2
32 (commencing with Section 12200) of Division 3 of Title 1,
33 provided the aggregate investment of any shareholder or member
34 in shares or memberships sold pursuant to this subdivision does
35 not exceed three hundred dollars (\$300). This exemption does not
36 apply to the shares or memberships of that corporation if any
37 promoter thereof expects or intends to make a profit directly or
38 indirectly from any business or activity associated with the
39 corporation or the operation of the corporation or from
40 remuneration, other than reasonable salary, received from the

1 corporation. This exemption does not apply to nonvoting shares
2 or memberships of that corporation issued to any person who does
3 not possess, and who will not acquire in connection with the
4 issuance of nonvoting shares or memberships, voting power
5 (Section 12253) in the corporation. This exemption also does not
6 apply to shares or memberships issued by a nonprofit cooperative
7 corporation organized to facilitate the creation of an unincorporated
8 interindemnity arrangement that provides indemnification for
9 medical malpractice to its physician and surgeon members as set
10 forth in subdivision (q).

11 (s) Any security consisting of or representing an interest in a
12 pool of mortgage loans that meets each of the following
13 requirements:

14 (1) The pool consists of whole mortgage loans or participation
15 interests in those loans, which loans were originated or acquired
16 in the ordinary course of business by a national bank or federal
17 savings association or federal savings bank having its principal
18 office in this state, by a bank incorporated under the laws of this
19 state or by a savings association as defined in subdivision (a) of
20 Section 5102 of the Financial Code and which is subject to the
21 supervision and regulation of the Commissioner of Financial
22 Institutions, and each of which at the time of transfer to the pool
23 is an authorized investment for the originating or acquiring
24 institution.

25 (2) The pool of mortgage loans is held in trust by a trustee which
26 is a financial institution specified in paragraph (1) as trustee or
27 otherwise.

28 (3) The loans are serviced by a financial institution specified in
29 paragraph (1).

30 (4) The security is not offered in amounts of less than
31 twenty-five thousand dollars (\$25,000) in the aggregate to any one
32 purchaser.

33 (5) The security is offered pursuant to a registration under the
34 Securities Act of 1933, or pursuant to an exemption under
35 Regulation A under that act, or in the opinion of counsel for the
36 issuer, is offered pursuant to an exemption under Section 4(2) of
37 that act.

38 (t) (1) Any security issued or guaranteed by and representing
39 an interest in or a direct obligation of an industrial loan company
40 incorporated under the laws of the state and authorized by the

1 Commissioner of Financial Institutions to engage in industrial loan
2 business.

3 (2) Any investment certificate in or issued by any industrial
4 loan company that is organized under the laws of a state of the
5 United States other than this state, that is insured by the Federal
6 Deposit Insurance Corporation, and that maintains a branch office
7 in this state.

8 *(u) Any right to a bill credit or interest of a participant in a*
9 *shared renewable energy facility pursuant to Chapter 7.5*
10 *(commencing with Section 2830) of Part 2 of Division 1 of the*
11 *Public Utilities Code.*

12 SEC. 2. Section 216 of the Public Utilities Code is amended
13 to read:

14 216. (a) “Public utility” includes every common carrier, toll
15 bridge corporation, pipeline corporation, gas corporation, electrical
16 corporation, telephone corporation, telegraph corporation, water
17 corporation, sewer system corporation, and heat corporation, where
18 the service is performed for, or the commodity is delivered to, the
19 public or any portion thereof.

20 (b) Whenever any common carrier, toll bridge corporation,
21 pipeline corporation, gas corporation, electrical corporation,
22 telephone corporation, telegraph corporation, water corporation,
23 sewer system corporation, or heat corporation performs a service
24 for, or delivers a commodity to, the public or any portion thereof
25 for which any compensation or payment whatsoever is received,
26 that common carrier, toll bridge corporation, pipeline corporation,
27 gas corporation, electrical corporation, telephone corporation,
28 telegraph corporation, water corporation, sewer system corporation,
29 or heat corporation, is a public utility subject to the jurisdiction,
30 control, and regulation of the commission and the provisions of
31 this part.

32 (c) When any person or corporation performs any service for,
33 or delivers any commodity to, any person, private corporation,
34 municipality, or other political subdivision of the state, that in turn
35 either directly or indirectly, mediately or immediately, performs
36 that service for, or delivers that commodity to, the public or any
37 portion thereof, that person or corporation is a public utility subject
38 to the jurisdiction, control, and regulation of the commission and
39 the provisions of this part.

1 (d) Ownership or operation of a facility that employs
2 cogeneration technology or produces power from other than a
3 conventional power source or the ownership or operation of a
4 facility which employs landfill gas technology does not make a
5 corporation or person a public utility within the meaning of this
6 section solely because of the ownership or operation of that facility.

7 (e) Any corporation or person engaged directly or indirectly in
8 developing, producing, transmitting, distributing, delivering, or
9 selling any form of heat derived from geothermal or solar resources
10 or from cogeneration technology to any privately owned or publicly
11 owned public utility, or to the public or any portion thereof, is not
12 a public utility within the meaning of this section solely by reason
13 of engaging in any of those activities.

14 (f) The ownership or operation of a facility that sells compressed
15 natural gas at retail to the public for use only as a motor vehicle
16 fuel, and the selling of compressed natural gas at retail from that
17 facility to the public for use only as a motor vehicle fuel, does not
18 make the corporation or person a public utility within the meaning
19 of this section solely because of that ownership, operation, or sale.

20 (g) Ownership or operation of a facility that is an exempt
21 wholesale generator, as defined in the Public Utility Holding
22 Company Act of 2005 (42 U.S.C. Sec. 16451(6)), does not make
23 a corporation or person a public utility within the meaning of this
24 section, solely due to the ownership or operation of that facility.

25 (h) The ownership, control, operation, or management of an
26 electric plant used for direct transactions or participation directly
27 or indirectly in direct transactions, as permitted by subdivision (b)
28 of Section 365, sales into a market established and operated by the
29 Independent System Operator or any other wholesale electricity
30 market, or the use or sale as permitted under subdivisions (b) to
31 (d), inclusive, of Section 218, shall not make a corporation or
32 person a public utility within the meaning of this section solely
33 because of that ownership, participation, or sale.

34 (i) The ownership, control, operation, or management of a
35 facility that supplies electricity to the public only for use to charge
36 light duty plug-in electric vehicles does not make the corporation
37 or person a public utility within the meaning of this section solely
38 because of that ownership, control, operation, or management. For
39 purposes of this subdivision, “light duty plug-in electric vehicles”
40 includes light duty battery electric and plug-in hybrid electric

vehicles. This subdivision does not affect the commission's authority under Section 454 or 740.2 or any other applicable statute.

(j) A corporation or person engaged directly or indirectly in developing, owning, producing, delivering, participating in, or selling interests in a shared renewable energy facility, pursuant to Chapter 7.5 (commencing with Section 2830) of Part 2, is not a public utility within the meaning of this section solely by reason of engaging in any of those activities.

SEC. 3. Section 218 of the Public Utilities Code is amended to read:

218. (a) "Electrical corporation" includes every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others.

(b) "Electrical corporation" does not include a corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity solely for any one or more of the following purposes:

(1) Its own use or the use of its tenants.

(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated or on real property immediately adjacent thereto, unless there is an intervening public street constituting the boundary between the real property on which the electricity is generated and the immediately adjacent property and one or more of the following applies:

(A) The real property on which the electricity is generated and the immediately adjacent real property is not under common ownership or control, or that common ownership or control was gained solely for purposes of sale of the electricity so generated and not for other business purposes.

(B) The useful thermal output of the facility generating the electricity is not used on the immediately adjacent property for petroleum production or refining.

(C) The electricity furnished to the immediately adjacent property is not utilized by a subsidiary or affiliate of the corporation or person generating the electricity.

1 (3) Sale or transmission to an electrical corporation or state or
2 local public agency, but not for sale or transmission to others,
3 unless the corporation or person is otherwise an electrical
4 corporation.

5 (c) “Electrical corporation” does not include a corporation or
6 person employing landfill gas technology for the generation of
7 electricity for any one or more of the following purposes:

8 (1) Its own use or the use of not more than two of its tenants
9 located on the real property on which the electricity is generated.

10 (2) The use of or sale to not more than two other corporations
11 or persons solely for use on the real property on which the
12 electricity is generated.

13 (3) Sale or transmission to an electrical corporation or state or
14 local public agency.

15 (d) “Electrical corporation” does not include a corporation or
16 person employing digester gas technology for the generation of
17 electricity for any one or more of the following purposes:

18 (1) Its own use or the use of not more than two of its tenants
19 located on the real property on which the electricity is generated.

20 (2) The use of or sale to not more than two other corporations
21 or persons solely for use on the real property on which the
22 electricity is generated.

23 (3) Sale or transmission to an electrical corporation or state or
24 local public agency, if the sale or transmission of the electricity
25 service to a retail customer is provided through the transmission
26 system of the existing local publicly owned electric utility or
27 electrical corporation of that retail customer.

28 (e) “Electrical corporation” does not include an independent
29 solar energy producer, as defined in Article 3 (commencing with
30 Section 2868) of Chapter 9 of Part 2.

31 (f) The amendments made to this section at the 1987 portion of
32 the 1987–88 Regular Session of the Legislature do not apply to
33 any corporation or person employing cogeneration technology or
34 producing power from other than a conventional power source for
35 the generation of electricity that physically produced electricity
36 prior to January 1, 1989, and furnished that electricity to
37 immediately adjacent real property for use thereon prior to January
38 1, 1989.

39 (g) A corporation or person engaged directly or indirectly in
40 developing, owning, producing, delivering, participating in, or

1 selling interests in a shared renewable energy facility, pursuant to
2 Chapter 7.5 (commencing with Section 2830) of Part 2, is not an
3 electrical corporation within the meaning of this section solely by
4 reason of engaging in any of those activities.

5 *SEC. 4. Section 365.1 of the Public Utilities Code is amended*
6 *to read:*

7 365.1. (a) Except as expressly authorized by this section, and
8 subject to the limitations in subdivisions (b) and (c), the right of
9 retail end-use customers pursuant to this chapter to acquire service
10 from other providers is suspended until the Legislature, by statute,
11 lifts the suspension or otherwise authorizes direct transactions. For
12 purposes of this section, “other provider” means any person,
13 corporation, or other entity that is authorized to provide electric
14 service within the service territory of an electrical corporation
15 pursuant to this chapter, and includes an aggregator, broker, or
16 marketer, as defined in Section 331, and an electric service
17 provider, as defined in Section 218.3. “Other provider” does not
18 include a community choice aggregator, as defined in Section
19 331.1, and the limitations in this section do not apply to the sale
20 of electricity by “other providers” to a community choice
21 aggregator for resale to community choice aggregation electricity
22 consumers pursuant to Section 366.2. *“Other provider” does not*
23 *include a “provider” as defined in subdivision (j) of Section 2832*
24 *or any corporation or person engaged directly or indirectly in*
25 *developing, owning, producing, delivering, participating in, or*
26 *selling interests in a shared renewable energy facility, pursuant*
27 *to Chapter 7.5 (commencing with Section 2830) of Part 2, solely*
28 *by reason of engaging in any of those activities.*

29 (b) The commission shall allow individual retail nonresidential
30 end-use customers to acquire electric service from other providers
31 in each electrical corporation’s distribution service territory, up to
32 a maximum allowable total kilowatthours annual limit. The
33 maximum allowable annual limit shall be established by the
34 commission for each electrical corporation at the maximum total
35 kilowatthours supplied by all other providers to distribution
36 customers of that electrical corporation during any sequential
37 12-month period between April 1, 1998, and the effective date of
38 this section. Within six months of the effective date of this section,
39 or by July 1, 2010, whichever is sooner, the commission shall
40 adopt and implement a reopening schedule that commences

1 immediately and will phase in the allowable amount of increased
2 kilowatthours over a period of not less than three years, and not
3 more than five years, raising the allowable limit of kilowatthours
4 supplied by other providers in each electrical corporation's
5 distribution service territory from the number of kilowatthours
6 provided by other providers as of the effective date of this section,
7 to the maximum allowable annual limit for that electrical
8 corporation's distribution service territory. The commission shall
9 review and, if appropriate, modify its currently effective rules
10 governing direct transactions, but that review shall not delay the
11 start of the phase-in schedule.

12 (c) Once the commission has authorized additional direct
13 transactions pursuant to subdivision (b), it shall do both of the
14 following:

15 (1) Ensure that other providers are subject to the same
16 requirements that are applicable to the state's three largest electrical
17 corporations under any programs or rules adopted by the
18 commission to implement the resource adequacy provisions of
19 Section 380, the renewables portfolio standard provisions of Article
20 16 (commencing with Section 399.11), and the requirements for
21 the electricity sector adopted by the State Air Resources Board
22 pursuant to the California Global Warming Solutions Act of 2006
23 (Division 25.5 (commencing with Section 38500) of the Health
24 and Safety Code). This requirement applies notwithstanding any
25 prior decision of the commission to the contrary.

26 (2) (A) Ensure that, in the event that the commission authorizes,
27 in the situation of a contract with a third party, or orders, in the
28 situation of utility-owned generation, an electrical corporation to
29 obtain generation resources that the commission determines are
30 needed to meet system or local area reliability needs for the benefit
31 of all customers in the electrical corporation's distribution service
32 territory, the net capacity costs of those generation resources are
33 allocated on a fully nonbypassable basis consistent with departing
34 load provisions as determined by the commission, to all of the
35 following:

36 (i) Bundled service customers of the electrical corporation.

37 (ii) Customers that purchase electricity through a direct
38 transaction with other providers.

39 (iii) Customers of community choice aggregators.

1 (B) If the commission authorizes or orders an electrical
2 corporation to obtain generation resources pursuant to subparagraph
3 (A), the commission shall ensure that those resources meet a system
4 or local reliability need in a manner that benefits all customers of
5 the electrical corporation. The commission shall allocate the costs
6 of those generation resources to ratepayers in a manner that is fair
7 and equitable to all customers, whether they receive electric service
8 from the electrical corporation, a community choice aggregator,
9 or an electric service provider.

10 (C) The resource adequacy benefits of generation resources
11 acquired by an electrical corporation pursuant to subparagraph (A)
12 shall be allocated to all customers who pay their net capacity costs.
13 Net capacity costs shall be determined by subtracting the energy
14 and ancillary services value of the resource from the total costs
15 paid by the electrical corporation pursuant to a contract with a
16 third party or the annual revenue requirement for the resource if
17 the electrical corporation directly owns the resource. An energy
18 auction shall not be required as a condition for applying this
19 allocation, but may be allowed as a means to establish the energy
20 and ancillary services value of the resource for purposes of
21 determining the net costs of capacity to be recovered from
22 customers pursuant to this paragraph, and the allocation of the net
23 capacity costs of contracts with third parties shall be allowed for
24 the terms of those contracts.

25 (D) It is the intent of the Legislature, in enacting this paragraph,
26 to provide additional guidance to the commission with respect to
27 the implementation of subdivision (g) of Section 380, as well as
28 to ensure that the customers to whom the net costs and benefits of
29 capacity are allocated are not required to pay for the cost of
30 electricity they do not consume.

31 (d) (1) If the commission approves a centralized resource
32 adequacy mechanism pursuant to subdivisions (h) and (i) of Section
33 380, upon the implementation of the centralized resource adequacy
34 mechanism the requirements of paragraph (2) of subdivision (c)
35 shall be suspended. If the commission later orders that electrical
36 corporations cease procuring capacity through a centralized
37 resource adequacy mechanism, the requirements of paragraph (2)
38 of subdivision (c) shall again apply.

39 (2) If the use of a centralized resource adequacy mechanism is
40 authorized by the commission and has been implemented as set

1 forth in paragraph (1), the net capacity costs of generation resources
2 that the commission determines are required to meet urgent system
3 or urgent local grid reliability needs, and that the commission
4 authorizes to be procured outside of the Section 380 or Section
5 454.5 processes, shall be recovered according to the provisions of
6 paragraph (2) of subdivision (c).

7 (3) Nothing in this subdivision supplants the resource adequacy
8 requirements of Section 380 or the resource procurement
9 procedures established in Section 454.5.

10 (e) The commission may report to the Legislature on the efficacy
11 of authorizing individual retail end-use residential customers to
12 enter into direct transactions, including appropriate consumer
13 protections.

14 ~~SEC. 4.~~

15 *SEC. 5.* Chapter 7.6 (commencing with Section 2831) is added
16 to Part 2 of Division 1 of the Public Utilities Code, to read:

17
18 CHAPTER 7.6. SHARED RENEWABLE ENERGY SELF-GENERATION
19 PROGRAM
20

21 2831. The Legislature finds and declares all of the following:

22 (a) The creation of renewable energy within California provides
23 significant financial, health, environmental, and workforce benefits
24 to the State of California.

25 (b) The California Solar Initiative has been extremely successful,
26 resulting in over 140,000 residential and commercial onsite
27 installations of solar energy systems. However, it cannot reach all
28 residents and businesses that want to participate and is limited to
29 solar. The Shared Renewable Energy Self-Generation Program
30 seeks to build on this success by expanding access to renewable
31 energy resources to all ratepayers who are currently unable to
32 access the benefits of onsite generation, *without shifting costs to*
33 *nonparticipants*.

34 (c) The Governor has proposed the Clean Energy Jobs Plan
35 calling for the development of ~~12,000~~ 20,000 megawatts of
36 generation from distributed renewable energy resources ~~of up to~~
37 ~~20 megawatts in size~~ by 2020. There is widespread interest from
38 many large institutional customers, including schools, colleges,
39 universities, local governments, businesses, and the military, for
40 development of renewable generation facilities to serve more than

1 33 percent of their energy needs. For these reasons, the Legislature
2 agrees that the Governor's Clean Energy Jobs Plan represents a
3 desired policy direction for the state. ~~It is the intent of the~~
4 ~~Legislature that renewable generation that comes online as part of~~
5 ~~the Shared Renewable Energy Self-Generation Program is counted~~
6 ~~toward an electrical corporation's efforts to implement the~~
7 ~~Governor's Clean Energy Jobs Plan.~~

8 (d) Properly designed, shared renewable energy programs can
9 provide access and cost savings to underserved communities, such
10 as low- to moderate-income residents, and residential and
11 commercial renters, ~~while not without~~ shifting costs to
12 ~~nonbeneficiaries~~ *nonparticipants*.

13 ~~(e) While municipal utilities already have the authority to create~~
14 ~~their own shared renewable energy programs, only an act of the~~
15 ~~Legislature can empower the vast majority of California residents~~
16 ~~to be able to enjoy the significant benefits of shared renewable~~
17 ~~energy systems, while the state benefits from avoided transmission~~
18 ~~and distribution upgrades, avoided line loss, and cleaner air and~~
19 ~~water.~~

20 ~~(f)~~

21 (e) Public institutions will benefit from the Shared Renewable
22 Energy Self-Generation Program's enhanced flexibility to
23 participate in shared renewable energy facilities. Electricity usage
24 is one of the most significant cost pressures facing public
25 institutions at a time when they have been forced to cut essential
26 programs, increase classroom sizes, and lay off teachers. Schools
27 may use the savings for restoring funds for salaries, facility
28 maintenance, and other budgetary needs.

29 ~~(g)~~

30 (f) Shared renewable energy self-generation creates jobs, reduces
31 emissions of greenhouse gases, and promotes energy independence.

32 ~~(h)~~

33 (g) Many large energy users in California have pursued onsite
34 renewable energy generation, but cannot achieve their goals due
35 to rooftop or land space limitations, or size limits on net metering.
36 The enactment of this chapter will create a mechanism whereby
37 institutional customers such as military installations, universities,
38 and local governments, as well as commercial customers and
39 groups of individuals, can efficiently invest in generating electricity
40 from renewable generation.

1 ~~(i)~~

2 ~~(h)~~ Therefore, it is the intent of the Legislature that this program
3 be implemented in such a manner as to create a large, sustainable
4 market for the purchase of an interest in offsite renewable
5 generation, while fairly compensating electrical corporations for
6 the services they provide.

7 ~~(j) It is the further intent of the Legislature to preserve a thriving,~~
8 ~~sustainable agricultural industry, and to ensure that the~~
9 ~~development of renewable energy does not remove prime farmland~~
10 ~~from productive use without a comprehensive public review~~
11 ~~process.~~

12 ~~(k)~~

13 ~~(i)~~ It is further the intent of the Legislature that the commission
14 minimize the rate impact the Shared Renewable Energy
15 Self-Generation Program has on ~~nonbeneficiaries~~ *nonparticipants*,
16 with a goal of ratepayer indifference. To the extent that the program
17 imposes incremental increases in rates, the commission shall
18 determine the appropriate way to allocate costs, which may include
19 equitable allocation of costs to all customers on a nonbypassable
20 basis.

21 ~~(j)~~ *It is the further intent of the Legislature to preserve a thriving*
22 *natural environment and to ensure that projects developed under*
23 *the Shared Renewable Energy Self-Generation Program are subject*
24 *to environmental protection best practices afforded under*
25 *California law and policies.*

26 2832. As used in this chapter, the following terms have the
27 following meanings:

28 (a) “Benefiting account” means one or more electricity accounts
29 designated to receive a bill credit pursuant to Section ~~2834~~ 2833
30 and mutually agreed upon by the facility provider and an electrical
31 corporation.

32 (b) “Bill credit” means an amount of money credited each
33 month, or in an otherwise applicable billing period, to one or more
34 benefiting accounts based on the amount of the electrical output
35 of a shared renewable energy facility that is assigned to the account
36 pursuant to the methodology described in Section ~~2834~~ 2833.

37 (c) “Default load aggregation point price” means a
38 commission-determined day-ahead price for electricity.

39 (d) “Energy component” means the generation portion of a
40 customer’s otherwise applicable tariff and any other portion of the

1 customer's charges that the commission determines may be
2 appropriate to offset without resulting in a net cost shift to
3 ~~nonbeneficiaries~~ *nonparticipants*.

4 (e) "Facility rate" means the per kilowatthour rate assigned to
5 each facility built under the program, used to calculate the bill
6 credit pursuant to the method described in ~~paragraphs (1) to (3),~~
7 ~~inclusive,~~ *paragraphs (1) and (2)* of subdivision (b) of Section
8 ~~2834~~ 2833.

9 (f) "Interest" means a direct or indirect ownership, lease,
10 subscription, or financing interest in a shared renewable energy
11 facility that enables the participant to receive a bill credit for a
12 retail account with the electrical corporation.

13 (g) "Local government" means a city, county, city and county,
14 special district, school district, public water district, public
15 irrigation district, county office of education, political subdivision,
16 or other local governmental entity. For the purposes of this chapter,
17 "water district" has the same meaning as defined in Section 20200
18 of the Water Code, and "irrigation district" means an entity formed
19 pursuant to the Irrigation District Law set forth in Division 11
20 (commencing with Section 20500) of the Water Code.

21 (h) "Participant" means a retail customer of an electrical
22 corporation who owns, leases, finances, or subscribes to an interest
23 in a shared renewable energy facility and who has designated one
24 or more of its own retail accounts as a benefiting account to which
25 the interest shall be attributed.

26 (i) "Participant account" means a retail customer account with
27 an electrical corporation to which a participant's interest in a shared
28 renewable energy facility shall be attributed.

29 (j) "Provider" means any entity whose purpose is to beneficially
30 own or operate a shared renewable energy facility for the
31 participants or owners of that facility, or to market an interest in
32 the facility.

33 (k) "Program" means the Shared Renewable Energy
34 Self-Generation Program established pursuant to this chapter.

35 (l) "Project" means the cumulative activities to build and make
36 operational a shared renewable energy facility.

37 (m) "Renewable energy credit" has the same meaning as defined
38 in Section 399.12.

1 (n) “Shared renewable energy facility” means a facility for the
2 generation of electricity that meets all of the following
3 requirements:

4 (1) Has a nameplate generating capacity of no more than 20
5 megawatts of alternating current.

6 (2) Is an eligible renewable energy resource pursuant to the
7 California Renewables Portfolio Standard Program (Article 16
8 (commencing with Section 399.11) of Chapter 2.3 of Part 1).

9 (3) Has its electrical output measured by a production meter
10 owned by the electrical corporation, that meets the tariff
11 requirements of the electrical corporation and the Independent
12 System Operator, and that independently measures the electricity
13 delivered to the grid by the facility.

14 (4) Is located within the service territory of a California electrical
15 corporation.

16 (5) Has been interconnected with the electrical grid in
17 compliance with the tariffs of the applicable interconnection
18 authority.

19 (6) Is either the PVUSA facility, meaning the photovoltaic
20 electricity generation facility selected by the City of Davis and
21 located at 24662 County Road, Davis, California, or is a newly
22 constructed renewable facility constructed pursuant to this chapter,
23 beginning commercial operation on or after June 1, 2014.

24 (7) The provider has, where applicable, complied with all
25 program rules and written notice procedures that may be required
26 by the commission.

27 2833. (a) (1) A retail customer of an electrical corporation
28 having 100,000 or more service connections within the state may
29 acquire an interest in a shared renewable energy facility for the
30 purpose of becoming a participant and shall designate one or more
31 benefiting accounts to which the interest shall be attributed.

32 (2) To be eligible to be designated as a benefiting account, the
33 account shall be for service to premises located within the
34 geographical boundaries of the service territory of the electrical
35 corporation containing the shared renewable energy facility.

36 (3) The participating customer’s bill credit may be used to offset
37 all or a portion of the energy component of that customer’s
38 electrical service, as provided in this chapter and in accordance
39 with those rules that the commission may adopt.

1 (4) A participant shall not acquire an interest in a shared
2 renewable energy facility that represents more than two megawatts
3 of generating capacity or the equivalent amount, as denominated
4 in kilowatthours of energy. This limitation does not apply to a
5 federal, state, or local government, school, school district, county
6 office of education, the California Community Colleges, the
7 California State University, or the University of California.

8 (b) The commission shall establish a facility rate for all shared
9 renewable energy facilities, as follows:

10 (1) The commission shall undertake a comprehensive analysis
11 of the costs and benefits associated with shared renewable energy
12 generation to determine a facility rate for all facilities participating
13 in the program that shall be based on the full value that the shared
14 renewable energy generation provides *the value of electricity*
15 *generated by shared renewable energy facilities for the purpose*
16 *of setting a facility rate. The commission shall determine the*
17 *valuation methodology after notice and an opportunity to comment.*
18 *The commission shall ensure that the valuation methodology does*
19 *not result in a net cost shift to nonparticipants.* No later than
20 December 31, 2014, the commission shall ~~adopt a methodology~~
21 ~~to calculate a publish facility rate rates~~ for shared renewable energy
22 ~~facilities, differentiated by resource type, as appropriate.~~

23 (2) ~~In order to ensure that the program becomes effective on~~
24 ~~January 1, 2014, an interim facility rate shall be set at the~~
25 ~~cumulative weighted average time of delivery adjusted cost of~~
26 ~~electricity established in the commission's Renewables Portfolio~~
27 ~~Standard Quarterly Reports published for 2012 and 2013 in~~
28 ~~compliance with Chapter 600 of the Statutes of 2011 (Senate Bill~~
29 ~~836 of the 2011-12 Regular Session) for eligible renewable energy~~
30 ~~resources of comparable size to, and utilizing the same generating~~
31 ~~technology as, the shared renewable energy facility, and that are~~
32 ~~under contract with the electrical corporation.~~

33 (3)

34 (2) The facility rate shall be set annually as a price per
35 kilowatthour of electricity and shall be applied at the time the
36 provider receives an award of capacity. Once established, a facility
37 rate shall be applicable to that facility for the operational life of
38 the facility, except as allowed in paragraph (1) of subdivision (c).

39 (4)

1 (3) The commission shall publish tariffs applicable to all
2 participants per electrical corporation, as necessary, no later than
3 90 days following the ~~addition of this section~~ *publication of the*
4 *facility rates*.

5 ~~(5)~~

6 (4) Any subsequent facility or a subsequent expansion of a
7 facility placed in service on or after the initial award of rated
8 generating capacity pursuant to paragraph ~~(3)~~ (2) that results in an
9 increase in the facility's capacity to produce electricity shall be
10 subject to the facility rate in effect on the date the provider applied
11 for an award of rated generating capacity for the subsequent facility
12 or increase in the facility's capacity.

13 ~~(6)~~

14 (5) The electrical corporation shall assign a monthly bill credit
15 equal to the facility rate for each kilowatthour of energy received
16 to the benefiting account, as directed by the provider. The bill
17 credit shall be applied to the energy component of the benefiting
18 account.

19 (c) (1) The commission may revise the methodology for
20 calculating facility rates at any time that it concludes that the
21 existing mechanism does not provide program participants with
22 the fair value of electricity and other benefits produced by the
23 shared renewable energy facility or overvalues the benefits to
24 nonparticipating customers of the electrical corporation for the
25 electricity generated by a shared renewable energy facility. Any
26 revision to the methodology for calculating the facility rate shall
27 apply to all new program capacity and shall also apply to existing
28 program capacity provided the change results in an increase to the
29 facility rate.

30 (2) By September 1, 2014, and annually by each September 1
31 thereafter, the commission shall review the progress toward
32 meeting the program goals for the most impacted and
33 disadvantaged communities, and may adjust the facility rate, or
34 facility rates, and rules for projects located in the most impacted
35 and disadvantaged communities if it determines that an adjustment
36 is necessary to achieve the goals and to provide equitable access
37 to the benefits of the program.

38 (3) Any renewable energy credits associated with an interest
39 shall be retired by either the provider or electrical corporation, as
40 they may agree, on behalf of the participant or transferred to the

Western Renewable Energy Generation Information System account of that participant, for the purpose of demonstrating the purchase of renewable energy. Those renewable energy credits shall not be further sold, transferred, or otherwise monetized by a party for any purpose. Renewable energy credits associated with electricity paid for by the electrical corporation shall be counted toward meeting that electrical corporation's renewables portfolio standard. For purposes of this subdivision, "renewable energy credit" and "renewables portfolio standard" have the same meanings as defined in Section 399.12.

(4) For energy that is unallocated to a benefiting account during the previous billing period, the recipient electrical corporation shall pay the provider the current default load aggregation point price plus the renewable energy credit value and receive any renewable energy credits associated with that energy.

(d) (1) A pilot program of 500 megawatts of alternating current rated nameplate generating capacity of shared renewable energy facilities shall be made available during the 18-month period beginning ~~January 1, 2014~~ *March 1, 2015*, and ending July 1, ~~2015~~ *2016*. Each electrical corporation's proportionate share of the program's total capacity shall be calculated based on the ratio of the electrical corporation's peak demand compared to the total statewide peak demand.

(2) On or before ~~March 1, 2014~~ *2015*, each electrical corporation shall submit a proposal to the commission for how to allocate the initial available capacity. Within 60 days of receipt of these proposals, the commission shall adopt rules for the allocation of the initial available capacity amongst the electrical corporations and to establish a transparent process for evaluating and ranking applications for shared renewable energy facility projects and awarding the initial capacity to those projects.

(3) Of the initial pilot program capacity:

(A) Twenty percent shall be reserved for projects of a size no greater than one megawatt of alternating current, constructed in areas previously identified by the California Environmental Protection Agency as the most impacted and disadvantaged communities for opportunities related to this chapter. These communities shall be identified as census tracts that are identified within the top 20 percent of results from the best available

1 cumulative impact screening methodology by considering the
2 following categories:

3 (i) Areas disproportionately affected by environmental pollution
4 and other hazards that can lead to negative public health effects,
5 exposure, or environmental degradation.

6 (ii) Areas with socioeconomic vulnerability.

7 (B) Twenty percent shall be reserved for initial subscription by
8 residential customers.

9 (C) (i) *The commission, when establishing the initial facility
10 rates, may adjust the rates for those participants receiving a bill
11 credit for the generation by a shared renewable energy facility
12 described in subparagraph (A), until the total cumulative
13 nameplate generating capacity of those facilities reaches 100
14 megawatts of alternating current, provided that any cost shift
15 associated with an adjusted facility rate impacts only other
16 program participants.*

17 *(ii) The commission, when establishing the initial facility rates,
18 may adjust the rates for residential customers until the total
19 cumulative interests of residential customers reaches 100
20 megawatts of alternating current rated nameplate generating
21 capacity, provided that any cost shift associated with an adjusted
22 facility rate impacts only other program participants.*

23 (4) No shared renewable energy facilities under this program
24 may be sited on lands that have held, within the previous five years,
25 a land use designation of prime farmland as defined by the
26 Department of Conservation's Farmland Mapping and Monitoring
27 Program pursuant to Section 65570 of the Government Code,
28 except when the designation has been reclassified to one congruent
29 to the use of the site for the purposes of this chapter by either the
30 Farmland Mapping and Monitoring Program, or via a public
31 process conducted by the relevant local land use management
32 planning authority.

33 (e) Each electrical corporation shall make awards allocating
34 rated generating capacity pursuant to the program in the following
35 manner:

36 (1) (A) Each electrical corporation shall, by ~~March 1, 2014~~
37 *January 1, 2015*, submit a proposed standard contract with
38 providers for commission approval. The commission shall utilize
39 the Tier 2 advice letter procedure for approval of a standard
40 contract submitted by an electrical corporation.

1 (B) The proposed standard contract shall be based on the
2 electrical corporation's standard contract used for the commission's
3 most recently approved renewable auction mechanism program.
4 Each electrical corporation shall modify the contract to eliminate
5 language irrelevant to this program, including, but not limited to,
6 compensation and monthly payments, operating and development
7 security, and time-of-day periods.

8 (2) A provider wishing to build a shared renewable energy
9 facility shall remit a nonrefundable administrative fee of one dollar
10 and fifty cents (\$1.50) per kilowatt of rated generating capacity to
11 the electrical corporation with its application for an allocation of
12 capacity. At any time, the commission shall have the authority to
13 modify the rated generating capacity allocation mechanism,
14 including, but not limited to, creating project ranking criteria,
15 setting deposit requirements, and creating an award allocation
16 methodology for prospective projects.

17 (3) A provider shall meet the following benchmarks and
18 timelines for construction and operation of a shared renewable
19 energy facility. Failure to do so shall result in the provider
20 forfeiting the rated generating capacity awarded to it.

21 (A) The provider shall issue an unrestricted notice to proceed
22 with construction of the shared renewable energy facility within
23 180 days of the provider receiving an award allocating rated
24 generating capacity from the electrical corporation.

25 (B) The shared renewable energy facility shall achieve
26 commercial operation within 24 months of receiving an award
27 allocating rated generating capacity pursuant to this subdivision.

28 (C) A provider shall receive an extension because of
29 interconnection delays that are outside the provider's control, for
30 a maximum extension of six months.

31 (D) A provider may receive a six-month extension for
32 noninterconnection factors outside the control of the provider.

33 (4) The electrical corporation shall ensure that no single entity
34 or its affiliates or subsidiaries is awarded more than 20 percent of
35 any single calendar year's total cumulative rated generating
36 capacity made available pursuant to this program.

37 (5) The commission shall maintain a public database ~~of that~~
38 *includes all of the following:*

1 (A) All projects that have been approved for participation in
2 the pilot program, their size, and where the projects are connecting
3 to the transmission or distribution system.

4 (B) The nameplate generating capacity of those projects located
5 in environmental justice areas described in subparagraph (A) of
6 paragraph (3) of subdivision (d).

7 (C) The facility rates for shared renewable energy facilities that
8 have achieved commercial operation.

9 (D) The proportion of shared renewable energy facilities
10 subscribed to by residential customers.

11 (E) Any other data relative to the program that the commission
12 considers suitable for disclosure to the public.

13 (f) (1) Once the initial 500 megawatts of cumulative rated
14 generating capacity has been awarded for shared renewable energy
15 facility projects, the commission shall evaluate the functioning of
16 the program.

17 (2) By July 1, ~~2015~~ 2016, the commission shall conclude an
18 evaluation of the program to date, to determine if the goals of the
19 program are being met, including, but not limited to, the goals of
20 increasing access to renewable power and ensuring ~~nonbeneficiary~~
21 nonparticipant ratepayer indifference.

22 (3) Unless the commission determines that the program goals
23 are not being met per the goals and timetable identified in
24 paragraph (1) of subdivision (d), the commission shall authorize
25 additional capacity to be made available under this program in
26 keeping with the stated legislative intent, and determine the
27 capacity allocation and manner of participation by residential
28 customers and the capacity allocation for developing projects in
29 areas specified in subparagraphs (A) and (B) of paragraph (3) of
30 subdivision (d).

31 (4) If the commission determines that one or more of the goals
32 are not being met, the commission shall revise the program prior
33 to authorizing additional capacity. Revisions may include
34 increasing customer disclosure information or other safeguards to
35 ensure customer protection, revising capacity set-asides for
36 customer classes or project sizes to increase customer access to
37 the program, alterations in the bill credit mechanism in paragraph
38 (1) of subdivision (c) to ensure shared renewable energy facilities
39 are financially viable through this program while ensuring that all
40 ratepayers are paying for the benefits they receive from this

1 program, or other revisions the commission deems necessary to
2 ensure the program goals can be met. After the commission has
3 revised the program, the commission may authorize additional
4 capacity to be released provided in accordance with paragraph (2)
5 of subdivision (d).

6 (5) Following completion of the pilot program, the commission
7 may evaluate the program at any time, either on its own motion
8 or upon motion by an interested party, and may modify or adopt
9 any rules it determines to be necessary or convenient to ensure
10 that program goals can be met.

11 (6) An electrical corporation shall comply with the requirements
12 applicable to protection of the right to commercial free speech
13 described in Commission Decision 10-05-050 as applied to the
14 development, sale of subscriptions, and operation of shared
15 renewable energy facilities. Shared renewable energy facilities
16 may file a complaint with the commission for violation of this
17 paragraph.

18 (7) If requested by a city, county, or city and county, an
19 electrical corporation shall annually provide the city, county, or
20 city and county with the annual total generation of each shared
21 renewable energy facility in that local jurisdiction and the annual
22 aggregated total generation, by fuel type, allocated to benefiting
23 accounts in that local jurisdiction from all shared renewable energy
24 facilities, regardless of their location. The benefiting account data
25 shall be aggregated in a manner determined by the commission to
26 protect customer privacy and to provide a city, county, or city and
27 county with the information necessary to calculate greenhouse gas
28 emissions from energy consumption within its jurisdiction supplied
29 by shared renewable energy facilities. The commission may
30 develop alternative methods to enable the sharing of annual total
31 generation information.

32 (g) (1) The tariff applicable to a participant shall remain the
33 same, with respect to rate structure, all retail rate components, and
34 any monthly charges, to the charges that the participant would be
35 assigned if the participant did not receive a bill credit. Participants
36 shall not be assessed standby charges on the shared renewable
37 energy facility or the kilowatthour generation of a shared renewable
38 energy facility.

39 (2) Prior to the sale or resale of an interest in a shared renewable
40 energy facility, the provider or the participant, or both, shall

1 provide a disclosure to the potential participant that, at a minimum,
2 includes all of the following:

3 (A) A good faith estimate of the annual kilowatthours to be
4 delivered by the shared renewable energy facility based on the size
5 of the interest.

6 (B) A plain language explanation of the terms under which the
7 bill credits will be calculated.

8 (C) A plain language explanation of the contract provisions
9 regulating the disposition or transfer of the interest.

10 (D) A plain language explanation of the costs and benefits to
11 the potential participant based on its current usage and applicable
12 tariff, for the term of the proposed contract.

13 (3) Not more frequently than once per month, and upon
14 providing the electrical corporation with a minimum of 30 days'
15 notice, the participant organization may change, add, or remove a
16 benefiting account. If the owner of a benefiting account transfers
17 service to a new address or benefiting account, the electrical
18 corporation shall transfer any credit remaining from the previous
19 account to the new account.

20 (4) A provider shall be responsible for providing to the electrical
21 corporation, on a monthly basis, a statement of the kilowatthours
22 allocated to each participant to be used to determine the bill credit
23 to each benefiting account. If there has been no change in the
24 allocations from the previous submission, the provider is not
25 required to submit a new statement. An electrical corporation may
26 rely on the statement of kilowatthours allocated to each participant,
27 as provided by the provider, in implementing the requirements of
28 this chapter.

29 (5) The provider shall provide real-time meter data to the
30 electrical corporation and shall make the data available to a
31 participant upon request. A provider shall be responsible for all
32 costs of metering and shall retain production data for a period of
33 36 months.

34 (6) A provider shall provide to the electrical corporation
35 information on the identity of the benefiting accounts that will
36 receive a bill credit pursuant to this section not less than 30 days
37 prior to the billing cycle for which the participant's account will
38 receive a bill credit.

39 (7) A provider shall provide not less than 60 days' notice to the
40 electrical corporation prior to the date the shared renewable energy

1 facility becomes operational and shall execute all necessary
2 interconnection agreements, participation, and surplus sale
3 agreements with the electrical corporation and the Independent
4 System Operator on a schedule required by those entities.

5 (8) Unless the electrical corporation will be registering
6 renewable energy credits on behalf of the participant, the provider
7 shall establish an account and register the shared renewable energy
8 facility with the Western Renewable Energy Generation
9 Information System or its successor.

10 (9) The provider's interconnection process and cost allocation
11 for facilities built under this section shall be determined by
12 applicable rules for interconnection established by the commission
13 and the Independent System Operator.

14 (10) An electrical corporation shall ensure that requests for
15 establishment of bill credits and changes to benefiting accounts
16 are processed in a time period not to exceed 30 days from the date
17 it receives the request.

18 (11) An electrical corporation shall cooperate fully with shared
19 renewable energy facilities to implement this chapter.

20 (12) The commission shall not regulate the prices paid by the
21 participant for an interest in a shared renewable energy facility,
22 but may enforce the required disclosures, and may establish rules
23 applicable to providers to ensure consumer protection. Any
24 interested person or corporation may file a complaint with the
25 commission contending that a provider or electrical corporation
26 is not complying with any requirement of this chapter and seek an
27 order of the commission to enforce the requirements of this chapter
28 and to take whatever steps are necessary to ensure consumer
29 protection and compliance with the requirements of this chapter.

30 (h) (1) The electrical corporation may petition the commission
31 to incorporate in its bill those charges by the provider to
32 participants, provided that the electrical corporation recovers all
33 incremental costs of providing that service and provided that the
34 provider elects to use this service.

35 (2) Unless the electrical corporation elects to provide the service
36 of incorporating in its bill those charges by the provider to the
37 participant pursuant to paragraph (3), the following process shall
38 be used when billing and crediting a benefiting account:

39 (A) An electrical corporation shall bill a benefiting account for
40 all electricity usage, and for each applicable bill component,

1 including, but not limited to, transmission and distribution charges,
2 at the rate schedule applicable to the benefiting account, including
3 any cost-responsibility surcharge or other cost recovery mechanism,
4 as determined by the commission, to reimburse the Department
5 of Water Resources for purchases of electricity pursuant to Division
6 27 (commencing with Section 80000) of the Water Code.

7 ~~Participants shall not be subject to any departing load charge.~~

8 (B) An electrical corporation shall subtract the bill credit
9 applicable to the benefiting account monthly. The electrical
10 corporation shall ensure that the participant receives the full bill
11 credit to which it is entitled. The information and line items on a
12 participant's bill statement will be unchanged, except one or more
13 entries detailing the bill credit that shall be added to a participant's
14 bill.

15 (C) If, at the end of each billing cycle, the total otherwise
16 applicable energy component of the bill exceeds the bill credit,
17 the benefiting account shall be billed for the difference.

18 (D) If, at the end of a billing cycle, the bill credit exceeds the
19 energy component of the amount billed to the account, the
20 difference shall be carried forward as a dollar credit to the next
21 billing cycle. Any earned credit that exceeds the energy component
22 of the bill shall roll over to the subsequent billing period and shall
23 continue to roll over until used or until the annual anniversary date
24 of the participant's initial bill credit, whichever occurs first. On
25 the annual anniversary date of the participant's initial bill credit,
26 any remaining bill credit earned during the previous year and that
27 remains after the application of bill credits to the energy component
28 of a participant's bills shall cease to roll over and will be subject
29 to a default load aggregation point price true-up. The default load
30 aggregation point price true-up shall be calculated by converting
31 the remaining unused bill credits to kilowatthours, by dividing the
32 unused bill credits by the monetary value of a bill credit, and then
33 multiplying the kilowatthours by the default load aggregation point
34 price. The amount calculated doing the default load aggregation
35 point price true-up is owed by the electrical corporation to the
36 participant. The commission shall determine whether the default
37 load aggregation point price true-up is to be paid to participants
38 or credited to future billings and, if so, the manner of crediting.

39 (3) If the electrical corporation elects to incorporate in its bill
40 those charges by the provider to the participant, the following

1 process shall be used for the bundled electric service customers
2 of the electrical corporation:

3 (A) The provider shall convey ownership of the electricity
4 generated by the shared renewable energy facility that passes
5 through the meter and is delivered to the transmission or
6 distribution grid (delivered electricity) to the electrical corporation
7 under terms and conditions determined between the provider and
8 the electrical corporation, pursuant to paragraph (1) of subdivision
9 (e).

10 (B) Unsubscribed delivered electricity shall be sold to the
11 electrical corporation at the default load aggregation point price
12 plus the renewable energy credit value. The electrical corporation
13 shall receive credit under the California Renewables Portfolio
14 Standard Program (Article 16 (commencing with Section 399.11)
15 of Chapter 2.3 of Part 1) for all delivered electricity purchased
16 pursuant to this subparagraph, without the need for further
17 qualifying action.

18 (C) The electrical corporation shall charge the participant for
19 service under each benefiting account at the electrical corporation's
20 otherwise applicable tariff.

21 (D) The electrical corporation shall provide the participant with
22 a bill credit based on the allocated share of delivered electricity
23 and shall collect revenue from the participant commensurate with
24 the participant's contract with the provider.

25 (E) The electrical corporation, within 60 days, shall remit to the
26 participant organization the revenue collected from participants
27 through billings pursuant to subparagraph (D).

28 (4) Nothing in paragraph (3) requires a particular bill format or
29 the inclusion of any specific separate billing line items.

30 (5) The commission shall, by January 1, 2015, determine
31 whether customers participating in direct transactions may receive
32 bill credits equivalent to what would be provided to bundled
33 electric service customers of a participating electrical corporation
34 pursuant to this chapter, and, if so, shall implement rules and
35 procedures for enabling those transactions. These particular
36 transactions may include those with an electric service provider
37 that does not provide distribution services and, customers receiving
38 electric service through a ~~shared~~ *community* choice aggregation
39 program.

(i) (1) To ensure the maximum systemic benefit from shared renewable energy facilities under this chapter, electrical corporations shall provide to the commission, prior to the release of capacity, maps indicating locations in their service territory where the addition of capacity would reduce line loss, lower transmission capacity constraints, and defer or avoid transmission and distribution network upgrades and construction. The commission may adopt guidance in determining criteria for the awarding of capacity in a manner as to reflect these benefits. *The commission shall also ensure that projects being awarded capacity under the program are subject to protections consistent with those afforded under the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1).*

~~(2) Before December 31, 2015, the commission shall complete an evaluation of whether the program causes any incremental rate impacts. If the commission finds rate impacts, it will determine whether and how to allocate these costs equitably to all program participants, or instead recover on a fully nonbypassable basis from all customers receiving distribution service from an electrical corporation, including ratepayers with rates that are otherwise subject to rate increase limitations pursuant to Section 739.9, but excluding customers in the California Alternate Rates for Energy (CARE) program or the family electric rate assistance (FERA) programs.~~

~~(3) On or before February 1, 2016, the commission shall require each electrical corporation to file with the commission, for its approval, any revisions to its tariffs, rates, and rate design as are necessary to ensure an equitable allocation to all customers, consistent with the commission's evaluation.~~

~~(4)~~

(2) The commission shall ensure full and timely recovery of all reasonable costs incurred by an electrical corporation to implement the program, including reasonable expenses for changes to its billing system and handling of collections, and shall determine the appropriate method of allocating those costs. The commission shall approve a memorandum account to track billing system and implementation costs, as well as revenue from provider project applications, and may not direct an electrical corporation to conduct

1 any billing system work prior to approval of the memorandum
2 account.

3 ~~(5)~~

4 (3) In calculating its procurement requirements to meet the
5 requirements of the California Renewables Portfolio Standard
6 Program (Article 16 (commencing with Section 399.11) of Chapter
7 2.3 of Part 1), an electrical corporation may exclude from total
8 retail sales the kilowatthours generated by a shared renewable
9 energy facility commencing with the point in time at which the
10 facility achieves commercial operation.

11 ~~(6)~~

12 (4) The local and system resource adequacy value attributable
13 to a shared renewable energy facility, as determined by the
14 commission pursuant to Section 380, shall be assigned to the
15 electrical corporation to which the facility is interconnected.

16 ~~SEC. 5.~~

17 *SEC. 6.* No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.